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Practitioner's Docket No. 018579.0082US1

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Jose Miguel Cabezas

Application No.: 10/753672 Group No.: 3679
Filed: 1/7/2004 Examiner: David Bochna
For: Assembly for Joining Metallic Pipes Provided With Inner Plastic Liner

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TRANSMITTAL OF APPEAL BRIEF
(PATENT APPLICATION--37 C.F.R. § 1.192)

1. Transmitted herewith, in triplicate, is the Appeal Brief filed in response to the Final Office Action issued on March 31, 2005.

2. EXTENSION OF TERM

The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136 apply.

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*
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** Only the date of filing (' 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under ' 1.8 continues to be taken into account in determining timeliness. See ' 1.703(f). Consider "Express Mail Post Office to Addressee" (' 1.10) or facsimile transmission (' 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.*

Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

3. TOTAL FEE DUE

The total fee due is:

Appeal brief fee	$250.00
Extension fee (if any)	$0.00

TOTAL FEE DUE $0.00

4. FEE PAYMENT

Authorization is hereby given to charge the fees required for this submission to deposit account 502191.

Date: 5/4/05

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

EXAMINER: David Bochna

APPELLANT: Jose Miguel Cabezas

SERIAL NO. 10/753,672

FILED: January 07, 2004

FOR: Assembly for Joining Metallic Pipes Provided With Inner Plastic Liner

ART UNIT 3679

ATTY. DOCKET: 018579.0082US1

MS Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Attention: Board of Patent Appeals and Interferences

APPELLANT'S BRIEF UNDER 37 CFR § 1.192 FILED IN RESPONSE TO THE FINAL OFFICE ACTION

This brief, transmitted in triplicate, is submitted along with the appellant's Notice of Appeal in this case. Please charge $250.00 to cover the cost of filing the opening brief for a small entity as required by 37 CFR § 1.17(c) to our deposit account number 502191. Please also charge any additional fees or credit any overpayment to our deposit account.

This brief contains the following items under the headings in the order here indicated:

I. Real Party In Interest

II. Related Appeals And Interferences

III. Status Of Claims

IV. Status Of Amendments

V. Summary Of Claimed Subject Matter

VI. Grounds Of Rejection To Be Reviewed On Appeal

VII. Argument

VIII. Claims Appendix

I. Real Party In Interest

The real party in interest is Jose Miguel Cabezas.

II. Related Appeals And Interferences

There are no other appeals or interferences in this matter known to appellant.

III. Status Of Claims

There are 11 claims in this case. The claims on appeal are 1-11.

IV. Status Of Amendments

Claim amendments were made in the response to the October 21, 2004 non-final Office Action.

V. Summary Of Claimed Subject Matter

Claim 1 is the only independent claim involved in this appeal. Claim 1 is generally directed to a pipe flange (Fig. 1, 11) comprising a first pipe flange (Fig. 1, 1) having a frontal face (Fig. 1, 10) that surrounds a central bore (Fig. 1, 23) passing through the flange. The face (Fig. 1, 10) comprises an internal flange recess (Fig. 1, 2) extending into the flange and surrounding the bore, and a groove (Fig. 1, 3) extending into the flange and surrounding the internal flange recess (Fig. 1, 2). The internal flange recess (Fig. 1, 2) comprises a textured surface (Fig. 5, 3) that at least partially surrounding the bore (Fig. 1, 23) such that the textured surface (Fig. 5, 3) is adapted to engage another surface (Fig. 5, 16).

VI. Grounds Of Rejection To Be Reviewed On Appeal

There are two grounds of rejection presented for review. The first is the rejection of claims 1-5 as being anticipated by Enger et al. (U.S. Patent No. 5,573,282) (Enger) (Final Office Action ¶2). The second is the rejection of claims 1-7 as being anticipated by Campbell (U.S. Patent No. 6,543,811) (Final Office Action ¶3).

VII. Argument

First ground of rejection: Anticipation by Enger. Claims 1-5 are argued together.

The applicant's position is that Enger fails to dislose an *internal flange recess that comprises a textured surface*

Independent claim 1, and all claims depending therefrom, expressly recites, "wherein the internal flange recess comprises a textured surface at least partially surrounding the bore." Enger fails to disclose this claim element (Arguments dated January 21, 2005, to Office Action, page 5, third full paragraph).

The examiner considers all surfaces to be "textured"

In the Office Action dated October 21, 2004, the examiner stated that "all surfaces inherently have some texture to them" (paragraph 3), and in the the Office Action dated March 31, 2005, the examiner restated the same thing (paragraph 2). Thus, the examiner considers all surfaces to be textured. Based on that assumption, the examiner apparently considers the element of an *internal flange recess that comprises a textured surface* to be inherent in the Enger disclosure.

The examiner considers the dictionary definition of "textured" to be relevant

In the final Office Action dated March 31, 2005, the examiner compared a dictionary definition to the applicant's claim in order to refute the applicant's agruments (Final Office Action, page 5, second full paragraph).

In this case, the dictionary definition of "textured" is irrlevant because the term is defined in the specification

If a meaning for a claim term is provided in the specification, the claims should be interpreted using that meaning ("When the applicant states the meaning that the claim terms are intended to have, the claims are examined with that meaning, in order to achieve a complete exploration of the applicant's invention and its relation to the prior art." *In re Zletz*, 893 F.2d 319, 321). Here, the applicant very clearly states a meaning for the term "textured surface" – "A

'textured surface', as the term is used herein, is a surface formed with gaps or other features adapted to engage a surface of a plastic flange in order to form a better seal with, and/or to better retain the plastic flange." (page 10, forth full paragraph).

Based on the definition of "textured" in the specification, all surfaces are not "textured"

Using the definition in the specification, the term *textured surface* is defined to mean "a surface formed with gaps or other features adapted to engage a surface of a plastic flange in order to form a better seal with, and/or to better retain the plastic flange." In order to make it abundantly clear that the applicant intends the term *textured surface* to include the structure of a surface adapted to engage another surface, the applicant has added that specific language to claim 1. Thus, claim 1 not only recites "an internal flange recess that comprises a textured surface", but it also recites "such that the surface is adapted to engage another surface". Surely, not every surface is adapted to engage another surface to form a better seal. "Better" is a relative term. If a "better" seal were to be formed, not just any surface would do. What is required is a surface that is adapted to engage another surface. In addition, the figures of the specification clearly show that some surfaces are textured and some are not – at least according to the definition of "textured" in the specification.

The applicant would further like to point out that the examiner's position that *all surfaces are inherently textured* is inconsistent with the tenet of claim construction that every claim element is a limitation. Thus the applicant's meaning of *textured surface* must be more narrow than one that includes *all surfaces*.

Therefore, Enger does not disclose an *internal flange recess that comprises a textured surface*

Based on the meaning of "textured surface" within the specification, its use in the figures, and its use as a limitation in the claims, Egner cannot be said to disclose an internal flange recess comprising a textured surface.

Second ground of rejection: Anticipation by Campbell. Claims 1-7 are argued together.

Campbell fails as an anticipatory reference for the same reasons that Egner fails

For the same reasons as discussed above with reference to Egner, Campbell also fails to disclose an internal flange recess that comprises a textured surface. The distinction between the surface in Campbell and the surface recited in claim 1 is elucidated by the claim language that adds the limitation: "such that the surface is adapted to engage another surface". Again, the examiner can argue that all surfaces are textured, but, even if that were true, not all surfaces are textured to the degree that the surface is adapted to engage another surface. On top of that, the definition of *textured* in the specification warrants that the surface be adapted to engage another surface to form a better seal. When the full definition of *textured* is applied to claim 1, Campbell also fails as an anticipatory reference.

Conclusion Of Argument

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California,* 814 F.2d 628, 631 (MPEP § 2131). Neither Enger nor Campbell can be said to disclose every element of claim 1. The applicant, therefore, respectfully requests that the rejection of all the claims based on Enger or Campbell be withdrawn.

Claims Appendix

1. [Previously presented] A pipe flange apparatus comprising a first pipe flange having a frontal face surrounding a central bore passing through the flange, the face comprising an internal flange recess extending into the flange and surrounding the bore, and a groove extending into the flange and surrounding the internal flange recess, wherein the internal flange recess comprises a textured surface at least partially surrounding the bore such that the textured surface is adapted to engage another surface.

2. [Original] The apparatus of claim 1 wherein the groove is substantially circular and the internal flange recess is disk shaped, and the diameter of the groove is greater than the diameter of the internal flange recess.

3. [Original] The apparatus of claim 2 wherein the flange comprises a plurality of boreholes extending through the flange and positioned radially around the groove.

4. [Original] The apparatus of claim 3 wherein the groove has a depth less than that of the internal flange recess.

5. [Original] The apparatus of claim 1 further comprising:

an internal flange having first and second portions surrounding a bore extending through the internal flange, wherein the first portion is positioned at least partially within the internal flange recess of the first pipe flange and in contact with the textured surface of the first pipe flange and the second portion extends into the bore; and

a first sealing ring positioned at least partially within the groove surrounding the internal flange recess.

6. [Original] The apparatus of claim 5 wherein the first portion of the internal flange is sized and positioned such that it substantially fills all of the internal flange recess but does extend radially outward from the internal flange recess.

7. [Previously presented] The apparatus of claim 6 wherein the flange is coupled to a lined pipe having a central liner that is separate from the internal flange, and wherein the central liner extends into the central bore of the first pipe flange such that the central liner and the second portion of the internal flange line the central bore of the first pipe flange.

8. [Original] The apparatus of claim 5 wherein the internal flange comprises a first surface adjacent to the textured surface, a second surface opposite the first surface, and a groove surrounding the internal flange bore and extending into the internal flange from the second surface.

9. [Original] The apparatus of claim 8 further comprising a second sealing ring positioned at least partially within the internal flange groove.

10. [Original] The apparatus of claim 8 further comprising:

a second pipe flange coupled to the first pipe flange, the second pipe flange having a frontal face surrounding a bore passing through the second pipe flange, the face of the second pipe flange comprising an internal flange recess extending into the second pipe flange and surrounding the bore of the second pipe flange, wherein the internal flange recess of the second pipe flange comprises a textured surface surrounding the bore of the second pipe flange; and

a second internal flange having first and second portions surrounding a bore extending through the second internal flange, wherein the first portion is positioned at least partially within the internal flange recess of the second pipe flange and in contact with the textured surface of the second pipe flange and the second portion extends into the central bore of the second pipe flange.

11. [Original] The apparatus of claim 10 wherein neither the second pipe flange nor the second internal flange has a groove sized and positioned to receive either the first sealing ring or the second sealing ring.

Respectfully submitted,

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